

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Exavir Binford,

Case No. 23-cv-1785 (PAM/DTS)

Plaintiff,

v.

REPORT AND RECOMMENDATION

Mayor Melvin Carter, et al.,

Defendants.

In an order dated July 10, 2023, this Court directed Exavir Binford to submit an initial partial filing fee of \$52.40, consistent with 28 U.S.C. § 1915(b). See Dkt. No. 4. Binford was given 21 days to submit the required initial partial filing fee, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. See Fed. R. Civ. P. 41(b). That deadline has now passed, and Binford has not submitted the required initial partial filing fee. Accordingly, this Court now recommends, consistent with the warning previously given to Binford, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. See *Wewerka v. Roper*, 431 F. App'x 517, 517 (8th Cir. 2011) (per curiam) (affirming dismissal without prejudice pursuant to Rule 41(b) following prisoner's failure to pay initial partial filing fee).

RECOMMENDATION

For the reasons set forth above, the Court RECOMMENDS THAT: this action be DISMISSED WITHOUT PREJUDICE under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: August 11, 2023

s/David T. Schultz
DAVID T. SCHULTZ
U.S. Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. See Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).